

NOTICE OF COLLECTIVE ACTION WAGE LAWSUIT

A Federal Court Authorized This Notice. This Is Not A Solicitation From A Lawyer.

Samuelson v. FMS Lawn & Landscape LLC
d/b/a Toledo Lawns, et al., Case No. 3:19-cv-01194
United States District Court for the Northern District of Ohio

**TO: ALL CURRENT AND FORMER HOURLY WORKERS OF TOLEDO LAWNS FROM
[3 YEARS PRIOR TO DATE NOTICE APPROVED BY COURT] TO THE PRESENT.**

1. INTRODUCTION

The purpose of this notice is to inform you of the existence of a lawsuit which you may join if you choose to do so, to advise you of how your rights may be affected, and to instruct you on the procedure for joining and participating in this lawsuit.

2. DESCRIPTION OF THE LAWSUIT

On May 24, 2019, the Plaintiff in this case, Christopher Samuelson, filed a lawsuit in the United States District Court for the Northern District of Ohio against FMS Lawn & Landscape LLC *d/b/a* Toledo Lawns, Toledo Landscape Design LLC, and Joshua Way (collectively referred to in this document as “Toledo Lawns”). Plaintiff Samuelson filed this case on behalf of himself and similarly situated workers of Toledo Lawns. The lawsuit alleges that Toledo Lawns failed to properly pay Plaintiff and others Overtime Compensation as required by the Fair Labor Standards Act (“FLSA”).

The Plaintiff in this lawsuit alleges that he and other hourly workers are owed overtime compensation during one or more workweeks. The overtime provisions of the FLSA require that an employer must pay non-exempt employees at the rate of not less than one-and-one-half times their regular rates of pay for all hours over forty hours each workweek.

Plaintiff is suing to recover damages for the last three (3) years. Plaintiff is also seeking to recover liquidated damages, attorneys’ fees, and costs associated with the case.

Toledo Lawns denies the allegations and claims that they did not violate any wage and hour law.

**THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF
EITHER PLAINTIFF’S CLAIMS OR DEFENDANTS’ DEFENSES.**

3. YOUR RIGHT TO PARTICIPATE IN THIS LAWSUIT

The Court has directed that notice be sent to workers who are similarly situated to the Plaintiff, giving them the opportunity to join this collective action.

If you were an **hourly worker** for Toledo Lawns on or after [3 YEARS PRIOR TO DATE NOTICE APPROVED BY COURT], you have the right to participate in this lawsuit.

4. EFFECTS OF JOINING THIS LAWSUIT

If you choose to join in this lawsuit, you will be bound by the judgment, whether it is favorable or unfavorable. You will also be bound by, and will share in, any settlement that may be reached on behalf of the employees who have filed or opted-in to this lawsuit.

If you choose to join this lawsuit, you will be represented by the attorneys currently representing the Plaintiff, the law firm of SCOTT & WINTERS LAW FIRM, LLC. If you join the lawsuit, you will not be required to pay attorney's fees or expenses in advance. If the lawsuit is successful, the class counsel may be paid either by the Defendants, or if a settlement is reached prior to judgment, class counsel may receive a percentage of any money judgment or settlement in favor of you, or others similarly situated, as agreed by contract and ordered by the Court. If you return the attached Consent Form, you should be aware that important decisions concerning the prosecution of this case may be made on your behalf. Further, you may be required to provide information, sit for a deposition, or testify in Court.

5. NO LEGAL EFFECT IN NOT JOINING THIS LAWSUIT

If you choose not to join this lawsuit, you will not be affected by any judgment or settlement rendered in this case, whether favorable or unfavorable. You will be free to file your own lawsuit, or you may choose to do nothing.

6. PLAINTIFFS' LEGAL COUNSEL:

Plaintiff and any Class Member who completes the form below will be represented by SCOTT & WINTERS LAW FIRM, LLC. You can contact the Plaintiff's Attorneys for free to obtain more information at:

Joseph F. Scott, *Esq.*
Ryan A. Winters, *Esq.*
Kevin M. McDermott II, *Esq.*
SCOTT & WINTERS LAW FIRM, LLC
The Caxton Building
812 Huron Rd. E., Suite 490
Cleveland, Ohio 44115
Tel. (216) 912-2221
Fax. (216) 350-6313
Email: kmcdermott@ohiowagelawyers.com

7. HOW TO JOIN THIS LAWSUIT

Enclosed you will find a form titled "Opt-In Consent Form." If you choose to join this lawsuit, and thus participate in any recovery that may result from this lawsuit, you may read, sign and return the Consent Form by mail, email or fax. The Consent Form should be sent to Plaintiffs' counsel at the above address, email or fax number.

The signed Consent Form must be returned to SCOTT & WINTERS LAW FIRM, LLC on or before **[FILL IN DATE – 60 DAYS AFTER MAILING], 2019** (WITHIN 60 DAYS OF NOTICE BEING SENT). If your signed Consent Form is not promptly returned, you may not be able to participate in any recovery obtained against the Defendants in this lawsuit.

8. NO RETALIATION PERMITTED

The law prohibits Defendants, or any of their agents or employees, to discharge you, or in any manner harass, discriminate or retaliate against you for taking part in this collective action.

9. FURTHER INFORMATION

Further information about this Notice or the action may be obtained from Plaintiffs' counsel at (216) 912-2221. The call is free and confidential.

DO NOT CONTACT THE COURT OR ANY COURT PERSONNEL FOR INFORMATION ABOUT THIS CASE.

[EXHIBIT B]

COVER EMAIL TO PUTATIVE COLLECTIVE ACTION MEMBERS

Subject: Notice of Collective Action Wage Lawsuit Against Toledo Lawns

Dear Current or Former Hourly Worker of Toledo Lawns:

Our law firm represents Christopher Samuelson, a former hourly worker of Toledo Lawns in an action seeking to recover alleged unpaid overtime wages. You are receiving this e-mail because Toledo Lawns's records indicate that you are also eligible to participate in this lawsuit and your rights may be affected by its outcome. Attached to this email you will find a Notice regarding the collective action legal case against Toledo Lawns recently authorized by the Court. The Notice explains the steps you need to take if you want to join. You should also be receiving a copy of the same information via U.S. Mail. After reviewing the Notice, if you would like to opt in to the case, you can complete the Opt-In Consent Form attached.

If you have any questions, please feel free to contact me at (216) 912-2221 or by e-mail at rwinters@ohiowagelawyers.com.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

CHRISTOPHER SAMUELSON,
*On behalf of himself and all others
similarly situated,*

Plaintiff,

v.

FMS LAWN & LANDSCAPE LLC
d/b/a TOLEDO LAWNS, et al.,

Defendants.

) CASE NO. 3:19-cv-01194

) JUDGE JAMES G. CARR

) **[EXHIBIT C]**

) **[PROPOSED] OPT-IN CONSENT**
) **FORM**

I hereby consent, agree, and opt-in to be a party Plaintiff in the matter of *Samuelson v. FMS Lawn & Landscape LLC d/b/a Toledo Lawns., et al.*, N. Dist. Ohio Case No. 3:19-cv-01194. I agree to be represented in this matter with respect to any wage and hour claims by Scott & Winters Law Firm, LLC. I understand that by filing this Consent I will be bound by the judgment of the Court on all issues in this case.

Signature:	_____	Date:	_____
Name:	_____		
Address			
Street and Number:	_____		
City, State, Zip Code:	_____		
Phone Number:	_____		
Email:	_____		

MAIL to: Kevin M. McDermott II, *Esq.*
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